

## SAFEGUARDS INFORMATION - MODIFIED HANDLING

January 12, 2004

SUBJECT: ORDER FOR ADDITIONAL SECURITY MEASURES (U)

Dear Licensee:

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued the enclosed generic Order (Enclosure 1) requiring you to implement specific additional security measures (ASMs). Attachment 2 to Enclosure 1 provides these ASMs. The Order is being issued to both NRC and Agreement State licensees under NRC's authority to protect the common defense and security. That authority resides exclusively with the federal government and has not been relinquished to the Agreement States. The Commission concludes that, in light of the current threat environment, your enhanced measures, and the additional measures in Attachment 2 to Enclosure 1, must be embodied in an Order, consistent with the established regulatory framework.

The Commission recognizes that you may have voluntarily and responsibly enhanced security measures at your facility, following the events of September 11, 2001. The Order does not prevent you from: (1) considering and implementing protective measures specified for a given threat condition level in the NRC's January 12, 2004, Regulatory Issue Summary (RIS) for Manufacturing and Distribution Licensees on the NRC Threat Advisory and Protective Measures System (Enclosure 2); and (2) maintaining the effectiveness of existing security measures taken in response to the events of September 11, 2001. Implementing Guidance (Enclosure 3) provides details about NRC's expectations for compliance with the ASMs. We ask that you carefully examine the ASMs and the associated Implementing Guidance and evaluate whether these measures are applicable to the specific circumstances of your licensed operation. If you believe that any of these measures should be relaxed or do not apply to your facility or licensed activity, please provide that information and your justification to the NRC within the response time required in the Order. The enclosed Order requires a response within twenty-five (25) days. We will review your response and provide a determination whether specific security measures should be relaxed or not applied to your licensed activities.

The Commission has determined that the current threat environment requires that the enclosed Order be effective immediately. These requirements will remain in effect until the Commission determines otherwise.

Sections IIIB and IIIC of the Order require notices and submissions from you about the additional security requirements in Attachment 2 to Enclosure 1, if

Warning: Violation of Section 147 of the Atomic Energy Act of 1954, "Safeguards Information" is subject to Civil or Criminal penalties.

Document transmitted herewith contains Safeguards Information. When separated from enclosures, this document is **Decontrolled**.

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1. you are unable to comply with any of the requirements,
2. any of the requirements are unnecessary due to your specific situation (e.g., you do not possess or have aggregated high-risk radioactive material of concern, you do not distribute high-risk radioactive material of concern, or wish to propose an alternative schedule or means of complying that would achieve the same objectives), or
3. implementing a requirement would adversely impact the safe operation of your facility, or cause you to violate your NRC or Agreement State license.

If anything in Sections IIIB or IIIC of the Order (as outlined above) applies to you, your response must include your justification or basis for requesting relief from or variation of any of the specific requirements. Also, you must thoroughly explain how any proposed alternative measures or schedule meets the same objectives as the additional security measures attached to the Order.

Section IIIC of the Order requires you to submit a schedule for completing the security requirements attached to the Order. If each requirement will be implemented by July 12, 2004, then your response may simply be, "All Additional Security Measures will be implemented by July 12, 2004," or other applicable earlier date. If you are seeking relief from the July 12, 2004, date for implementing any requirement, then you must provide more detailed schedule information about expected completion dates.

You must report when you have implemented all the requirements and are in compliance with the Order. This report should be made based on the schedule provided as required by Section IIIC of the Order, but no later than July 12, 2004. If you requested and were granted schedule relief, then you must make your compliance report in accordance with your new schedule. For those that are not implementing the requirements because you do not currently possess high-risk radioactive material of concern, but may possess it at some later date beyond July 12, 2004, you must implement the security requirements before you take possession of high-risk radioactive material of concern. You would report compliance at that time.

If your response to NRC proposes an alternative implementing schedule or alternative security measures, the NRC will determine the acceptability of your proposal and respond accordingly. If you would like a hearing on the NRC's determination, you must request one within 25 days of the date of the Order, even if the NRC has not by then determined whether your proposal(s) are acceptable.

The Commission has authority, under Section 147 of the Atomic Energy Act of 1954, as amended, to "issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information...." Unauthorized disclosure of SAFEGUARDS INFORMATION may result in civil and/or criminal penalties. The Commission has determined that the ASMs (Attachment 2 to Enclosure 1), the Regulatory Information Summary Table "Threat Conditions and Specific Actions for Manufacturing and Distribution Licensees" [Attachment 2 to Enclosure 2], the Implementing Guidance (Attachment 3) and licensee's physical protection measures to implement these ASMs contain SAFEGUARDS INFORMATION, and will not be released to the public as per the Order issued November 25, 2003, and forwarded to you, entitled, "ORDER IMPOSING REQUIREMENTS FOR THE PROTECTION OF CERTAIN SAFEGUARDS INFORMATION (EFFECTIVE IMMEDIATELY)." If your response to the Order includes specific security measures used to implement the ASMs, we request that you provide that information in

a separate enclosure or attachment. You will then need to follow the appropriate protection requirements, placing the appropriate markings on the documents and the inner mailing envelope when sending it to the NRC.

Please contact Bernard Stapleton at 301-415-2432 or [bws2@nrc.gov](mailto:bws2@nrc.gov) or Fritz Sturz at 301-415-6678 or [fcs@nrc.gov](mailto:fcs@nrc.gov) if you have questions about proper handling and protecting SAFEGUARDS INFORMATION.

The Commission has also determined that the List of Manufacturing and Distribution Licensees (Attachment 1 to Enclosure 1) and individual cover letters and Orders should continue to be designated as sensitive unclassified information for Official Use Only and will be withheld from the public. Each licensee should protect this information as it would its own confidential commercial or financial information, and only reveal it to those persons who need the information for conducting official business. The Official Use Only information should, as a minimum, be stored in a space or building that is protected by electronic access controls, security guards, or alternatively, in a locking cabinet or other equivalent storage container.

Please contact John Hickey at 301-415-7231 or [jwh1@nrc.gov](mailto:jwh1@nrc.gov) for help resolving any issues related to compliance with the requirements in the enclosed Order, or if you have any other questions.

The enclosed Order, without the Safeguards Information and Official Use Only information, has been forwarded to the Office of the Federal Register for publication.

Sincerely,

**/RA/**

Martin J. Virgilio, Director  
Office of Nuclear Material Safety  
and Safeguards

Enclosures: (1) Order Imposing Additional Security Measures with Attachments  
(2) Regulatory Issue Summary (RIS) 2002-12M with Enclosures  
(3) Implementing Guidance

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\* See Previous concurrence      Accession Number: ML040070609      Package: ML040070550

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OFFICE	D:DNS		OGC		D:STP		DD:OIP		D:NSIR	
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